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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,391	05/09/2001	Yoshiaki Moriyama	041465-5111	3429
55694	7590	07/30/2008	EXAMINER	
DRINKER BIDDLE & REATH (DC) 1500 K STREET, N.W. SUITE 1100 WASHINGTON, DC 20005-1209			LANIER, BENJAMIN E	
ART UNIT	PAPER NUMBER			
		2132		
MAIL DATE	DELIVERY MODE			
07/30/2008	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/851,391	<b>Applicant(s)</b> MORIYAMA ET AL.
	<b>Examiner</b> BENJAMIN E. LANIER	<b>Art Unit</b> 2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 03 June 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 31-33,35-40,42-45,47-49 and 51-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 31-33,35-40,42-45,47-49,51-54 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/964/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Intent to File a Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 June 2008 has been entered.

### ***Response to Amendment***

2. Applicant's amendment filed 03 June 2008 amends claims 31, 38, 45, and 49. Claims 46 and 50 have been cancelled. Claims 53 and 54 have been added. Applicant's amendment has been fully considered and entered.

### ***Response to Arguments***

3. Applicant argues, "when the source is determined as an unauthorized one, a scrambled output is not recorded/reproduced even if discriminated type of the copy control information is one for permitting only one recording, i.e. 'copy one'...this features is not disclosed or even suggest in Hashimoto to any extent." This argument is not persuasive because Hashimoto discloses that when the source is determined to be a 'non-cognizant device' and the copy control information is one for permitting only one recording, recording is prohibited (See Figure 18, Non-cognizant device, input CCI = once, cognizant recording ccid/emid = proh). The non-cognizant device can be considered an unauthorized device because it is incapable of recognizing the copy control information included in the content (See Col. 8, lines 14-17).

### ***Claim Rejections - 35 USC § 102***

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 31-33, 35-40, 42-45, 47-49, 51-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Hashimoto, EP 938,091. Referring to claims 31, 38, 45, 49, Hashimoto discloses an information recording system wherein data is recorded and encrypted, with copy control information, in different modes to allow for varied copy protection (Col. 7, lines 33-60 & Col. 8, lines 26-45 & Figure 5). When the data is received the copy control information and encryption mode indicator are read from the data header to determine the copy protection that is to be implemented (Col. 8, lines 37-46), which meets the limitation of a discrimination step of discriminating the type of the scramble system of the inputted information signal and the type of the copy control information of the inputted information signal. A determination is made to see whether the source of the content is cognizant or non-cognizant (Figure 18), which meets the limitation of a source determining step of determining a source of the inputted information signal in accordance with a combination of the discriminated type of the scramble system and the discriminated type of the copy control information. The copy control information and the encryption mode indicator are updated prior to the data being encrypted and stored on a recording medium (Col. 9, lines 7-60), which meets the limitation of a scramble system of applying a predetermined scramble system to the inputted information signal and producing a scrambled output when the discriminated type of the scramble system and the discriminated type of the copy control information are in a predetermined combination, and when the source is

determined as an authorized one, a recording step of recording the scrambled output on the recording medium. The initially received encrypted content is decrypted by a decryptor and output to the recording/reproducing circuit where it will be determined if the content can be recorded (Col. 7, lines 41-50), which meets the limitation of a descramble system applying step of applying a predetermined descramble system to the inputted information signal prior to the scramble system applying step applying the predetermined scramble system. When both the copy control information and the encryption mode indicator indicate copy once, the copy control information and the encryption mode indicator are updated to copy prohibited before the data is encrypted and recorded (Col. 9, lines 34-39 & Figure 5), which meets the limitation of wherein a type of the predetermined scramble system is different from that of the scramble system of the inputted information signal, the scramble system applying step applies the predetermined scramble system different from that originally applied to the inputted information signal, to the inputted information signal, without applying the same scramble system as that originally applied to the inputted information, wherein a type of the predetermined scramble system is different from that of a scramble system which a reproduction apparatus applies to information signal recorded in the recording medium by the recording step, the reproduction apparatus being capable of reproducing the recording medium. When the source is determined to be a ‘non-cognizant device’ and the copy control information is one for permitting only one recording, recording is prohibited (See Figure 18, Non-cognizant device, input CCI = once, cognizant recording ecid/emid = proh), which meets the limitation of wherein the recording step does not record the scrambled output even if the discriminated type of the copy control information is one for permitting only one recording when the source is determined as an unauthorized one.

Referring to claims 32, 33, 39, 40, 47, 51, Hashimoto discloses that when both the copy control information and the encryption mode indicator indicate copy once, the copy control information and the encryption mode indicator are updated to copy prohibited before the data is encrypted and recorded (Col. 9, lines 34-39 & Figure 5), which meets the limitation of the scramble system applying step applies a scramble system different from that of the information signal recorded on a prerecorded disc to the inputted information signal when the discriminated type of the copy control information of the inputted information signal coincides with that of the inputted information signal recorded on the prerecorded disc and produces the scrambled output, wherein the copy control information permits only one copy of the information signal.

Referring to claims 35, 42, Hashimoto discloses that a decryptor provides decryption of the input data signals (Col. 7, lines 41-44), which meets the limitation of wherein the recording method further comprises a descramble system applying step of applying a predetermined descramble system to the inputted information signal, wherein the scramble system applying step applies the predetermined scramble system to the inputted information signal after the predetermined descramble system is applied, the predetermined descramble system is restricted to a descramble system corresponding to a scramble system which is previously set.

Referring to claims 36, 43, 48, 52, Hashimoto discloses two different scramble/descramble modes when the copy control information indicate copy once (Figure 31 shows encryption modes of 'once' and 'proh' when the copy control information indicates copy once), which meets the limitation of the descramble system applying step applies two types of the predetermined descramble systems to two types of scramble systems of the inputted information signals respectively, one type of the scramble system of the information signal to

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which the copy control information permitting only one recording of the information signal outputted from a receiving apparatus (1) in an information recording medium is given, and for permitting only one copy of the outputted information signal to another information recording medium, and another type of the scramble system is a scramble system of the information signal outputted when reproduction is executed from a recording medium to which the copy control information for permitting only one copy of the information signal is given.

Referring to claims 37, 44, Hashimoto discloses that one of the copy protection modes indicated by the copy control information and the encryption mode indicator is copy prohibited (Col. 9, lines 47-60 & Figure 5), which meets the limitation of the scramble system applying step applies only one predetermined scramble system to the inputted information signal, and the only one predetermined scramble system is a scramble system which is applied to the case where recording information to which copy control information for forbidding copies after the information signal is copied once is given is recorded onto the recording medium.

Referring to claims 53-54, Hashimoto discloses that the EMID for cognizant recording is different based on whether the source is a cognizant device or a non-cognizant device (Figure 18), which meets the limitation of the scramble systems applying step applies a scramble system to the read information in accordance with the determined source so that the applied scramble system is different by the determined source.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN E. LANIER whose telephone number is (571)272-3805. The examiner can normally be reached on M-Th 6:00am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Benjamin E Lanier/  
Primary Examiner, Art Unit 2132